

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

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*In re:*

Chapter 11  
Case No.:

COOPERSMITH, SIMON & VOGEL, P.C.

Debtors.

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**AFFIDAVIT PURSUANT TO E.D.N.Y. LBR 1007-4**

STATE OF NEW YORK        )  
                                      )ss.:  
COUNTY OF NASSAU        )

I, Michael E. Simon, being duly deposed, swears as follows:

1.       I am the Senior Vice President and Treasurer of Coopersmith, Simon & Vogel, P.C., the debtor and debtor-in-possession herein ("CS&V" or "Debtor").

2.       I submit this affidavit in conjunction with the filing of a voluntary petition for relief under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy Code").

3.       Pursuant to Rule 1007-4 of the Local Bankruptcy Rules of the Eastern District of New York, I state as follows:

- (i)       The Debtor is not a small business debtor within the meaning of Bankruptcy Code § 101(51D).
- (ii)      CS&V is a New York professional corporation conducting business in the field of accounting and specializing in tax compliance and audit matters. The Debtor was compelled to seek Chapter 11 relief as a result of its ongoing litigation with Weiser, LLP ("Weiser") stemming from alleged breaches of a partnership agreement between the Debtor's officers and directors Jeffrey S. Coopersmith ("Coopersmith") Michael E. Simon ("Simon")

and William A. Vogel (“Vogel”) and Weiser resulting in a judgment of the Supreme Court of the State of New York, County of Nassau in the amount of \$1,348,752.39 (the “Weiser Judgment”). Over the course of the litigation, during the past six (6) years, the Debtor was required to pay a total of approximately \$1,875,000.00 in legal fees to defend the litigation. The cost of the litigation, coupled with the cost in time and manpower necessary to defend the litigation, resulted in severe economic strain on the Debtor rendering it incapable of meeting both its ongoing obligations as well as the payment of the Weiser Judgment.

- (iii) Not applicable.
- (iv) No committee was organized prior to the order for relief in this Chapter 11 case.
- (v) A list of the Twenty Largest Unsecured Creditors, excluding insiders, is attached to the Petition.
- (vi) The Debtor has three secured creditors: JP Morgan Chase Bank, NA, P.O. Box 659754, San Antonio, TX 78265, with a claim in the amount of approximately \$240,427.25, secured by first position blanket security interest in all of the Debtor's assets; HSBC Bank USA, NA, P.O. Box 37279, Baltimore, MD 21297, with a claim in the amount of approximately \$327,471.00, secured by a second position blanket security interest in all of the Debtor's assets; JP Morgan Chase Bank, NA, PO Box 659754, San Antonio, TX 78265, with a claim in the amount of approximately \$4,314.22, secured by a security interest in certain printers, computers, and office furnishings.
- (vii) The Debtor's assets consist of accounts receivable, bank accounts and office furnishings totaling approximately \$199,035.04.
- (viii) Not applicable.

- (ix) Not applicable.
- (x) The Debtor operates out of its leased premises located at 50 Charles Lindbergh Blvd., Ste. 605, Uniondale, New York 11553.
- (xi) The Debtor's limited fixed assets consisting of computers, and general office equipment, together with the Debtor's books and records are all located at the Debtor's offices located at 50 Charles Lindbergh Blvd., Ste. 605, Uniondale, New York 11553.
- (xii) There is a action pending in the Suffolk County Supreme Court filed by Weiser LLP against, *inter alia*, the Debtor, Index No.: 601805/05 wherein a judgment was entered against the Debtor on May 12, 2011 in the amount of \$1,348,752.39, payable in 48 equal monthly installments commencing 30 days after the entry of the judgment with interest thereon at the prime rate .
- (xiii) The senior management of the Debtor consists of the following: Jeffrey S. Coopersmith, CPA - President and 30% owner, with 35 years of accounting experience; Michael E. Simon, CPA - Sr. Vice President and Treasurer and 30% owner, with 25 years of accounting experience; William A. Vogel, CPA - Sr. Vice President and Secretary, 30% owner with 35 years of accounting experience; Steven H. Levy, CPA - Vice President and 10% owner, with over 25 years of accounting experience.
- (xiv) The Debtor's estimated payroll for the thirty (30) day period following the filing of the Chapter 11 Petition, exclusive of owners, is \$62,716.00.
- (xv)(A) The amount proposed to be paid for services for the 30 day period following the filing of the Chapter 11 petition for officers and directors is \$75,283.00
- (xv)(B) Not applicable.
- (xv)(C) Not applicable.

- (xvi) A schedule for the thirty (30) day period following the filing of the Chapter 11 petition of estimated cash receipts and disbursements, together with an accounts receivables aging report have been annexed hereto as Exhibit "A".
- (xvii) Not applicable.

COOPERSMITH, SIMON & VOGEL, P.C.

By: s/ *Michael E. Simon*  
Michael E. Simon  
Sr. Vice President & Treasurer

Sworn to before me this  
2<sup>nd</sup> day of September, 2011

s/ *Anthony F. Giuliano*  
Notary Public

**Anthony Giuliano**  
**Notary Public - State of New York**  
**No.: 01GI5047101**  
**Commissioned in Suffolk County, New York**  
**Commission Expires: July 24, 2013**